

1957

December 2

Mr. Adelard E. Cote
Labor Commissioner
Department of Labor
State House
Concord, New Hampshire

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OCT 01 1998

CONCORD, N.H.

Dear Mr. Cote:

In your letter of November 20, 1957 you inquire as to whether the minimum wage law and the payment of wage law, so-called, apply to cities, towns or counties.

It is a rule of general application that the State is not to be considered as being within the terms of a statute no matter how general the language unless it is expressly named therein. Cities, towns and counties are simply political or geographical subdivisions of the State through which it exercises some of its sovereign powers. Accordingly the general rule that the State is not to be considered within the terms of a statute unless expressly named therein applies equally to the aforementioned political subdivisions of the State.

Since it is nowhere expressly stated in the minimum wage law, RSA 279 as amended, that cities, towns or counties are governed by its provisions, it is our opinion that they are not subject to the minimum wage law.

The so-called payment of wage law is contained in RSA 275:42, et seq. RSA 275:42 includes "every municipal corporation" among other categories of employers. Accordingly the so-called payment of wage law does apply to cities, towns and counties. However, note RSA 275:44 which excepts municipal officers whose services are paid for by the day, and teachers employed by school districts from the provisions of RSA 275:42 and 43.

Sincerely yours,

John J. Zimmerman
Assistant Attorney General

JJZ/lt